

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA**

ALLEN BROWN	:	
Plaintiff	:	Civil Action
	:	
v.	:	
	:	M.D. PA. Case #:
DAUPHIN COUNTY,	:	
DAUPHIN COUNTY SHERRIFF'S	:	Dauphin Co. Docket #:
DEPARTMENT,	:	2018-cv-5885
NICHOLAS CHIMIENTI, JR.,	:	
PAUL LEGGORE,	:	JURY TRIAL DEMANDED
MIDDLETOWN BOROUGH POLICE	:	
DEPARTMENT,	:	
MIDDLETOWN BOROUGH,	:	
DAUPHIN COUNTY CENTRAL BOOKING,	:	
JOHN & JANE DOE MIDDLETOWN POLICE	:	
OFFICERS,	:	
and	:	
JOHN & JANE DOE CENTRAL BOOKING	:	
EMPLOYEES	:	
Defendants	:	

**DEFENDANTS DAUPHIN COUNTY, DAUPHIN COUNTY SHERIFF'S
DEPARTMENT, NICHOLAS CHIMIENTI, JR., PAUL LEGGORE, AND
DAUPHIN COUNTY CENTRAL BOOKING'S NOTICE OF REMOVAL**

Defendants Dauphin County, Dauphin County Sherriff's Department, Nicholas Chimienti, Jr., Paul Leggore and Dauphin County Central Booking (collectively "Defendants"), hereby give notice of removal of the Civil Action and notice caption, Allen Brown v. Dauphin County, et al., No 2018-cv-5885 in the Court of Common Pleas of Dauphin County, Pennsylvania, to the United States

District Court for the Middle District of Pennsylvania. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1441(a) and 1446. As ground for removal, Defendants state the following:

1. Plaintiff commenced a civil action on September 4, 2018 by filing a Complaint in the Court of Common Pleas of Dauphin County, Pennsylvania, entitled, *Allen Brown v. Dauphin County, Dauphin County Sherriff's Department, Nicholas Chimienti, Jr., Paul Leggore, Middletown Borough Police Department, Middletown Borough, Dauphin County Central Booking, John and Jane Doe Middletown Police Officers and John and Jane Doe Central Booking Employees*, docketed at 2018-cv-5885. See Plaintiff's Complaint attached as **Exhibit 1**.

2. Plaintiff mailed a copy of the Complaint to Defendants and requested that they accept service.

3. Counsel for Defendants Dauphin County, Dauphin County Sheriff's Department, Nicholas Chimienti, Jr., Paul Leggore and Dauphin County Central Booking entered its appearance on October 15, 2018 has accepted service on behalf of the Defendants pursuant to Pa. R.C.P. 402(b). See Entry of Appearance attached as **Exhibit 2**.

4. Upon information and belief, counsel for defendants Middletown Borough Police Department, and Middletown Borough have accepted service pursuant to Pa. R.C.P. 402(b).

5. Michael McAuliffe Miller, Esq., and Tricia S. Lontz, Esq., have entered their appearance for defendants Middletown Borough Police Department and Middletown Borough. J. Michael Kvetan, Esq., has entered his appearance on behalf of Middletown Borough.

6. This is a Civil Action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331 in that the Plaintiff has alleged matters arising under the Constitution and laws of the United States.

7. At the time the Complaint was filed and at the time this Notice is being filed, to the best of the moving Defendants' information, knowledge and belief, all Defendants are citizens, residents of and are domiciled in the Commonwealth of Pennsylvania.

8. To the best of the Defendants' information, knowledge and belief, Plaintiff Allen Brown is a citizen and resident of, and is domiciled in the Commonwealth of Pennsylvania at the time this lawsuit was instituted. Plaintiff resides at 107 Mill Street, Apt. 5K, Middletown, PA 17057.

9. Original jurisdiction pursuant to federal question jurisdiction exists within the meaning of 28 U.S.C. § 1331.

10. The state court action was commenced by way of Complaint on or about September 4, 2018, and service was accepted on the part of Defendants pursuant to Pa. R.C.P. 402(b) on October 18, 2018. *See* Acceptance of Service attached as **Exhibit 3**.

11. Accordingly, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b), which provides that "the Notice of removal of a Civil Action shall be filed within thirty (30) days after receipt by the Defendant, through service or otherwise, a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the Defendant if such initial pleading has then been filed in court, and is not required to be served on the defendant, whichever period is shorter."

12. Plaintiff's claims, as set forth in the Complaint, is for damages due to alleged civil rights and constitutional violations arising from Plaintiff's arrest on September 3, 2016.

13. There is no amount in controversy requirement for jurisdiction conferred in this Court pursuant to 28 U.S.C. § 1331.

14. Venue is properly laid in this district because a substantial part of the events or omissions giving rise to the Plaintiff's claims occurred in this district. 28 U.S.C. § 1391(a)(2).

15. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served on all parties and filed with the Prothonotary in the Court of Common Pleas of Dauphin County, Pennsylvania.

16. 28 U.S.C. § 1446(b)(2)(A) requires that all defendants who have been properly joined and serve must consent to the removal of the action. Since none of these defendants have been properly served, no consent is necessary.

17. Counsel for defendants Middletown Borough Police Department, and Middletown Borough, were contacted on October 18, 2018, and consent in the Removal of this matter. See correspondence attached as **Exhibit 4**.

WHEREFORE, this Court has jurisdiction in this matter pursuant to 28 U.S.C. § 1331 based on original federal question jurisdiction and Defendants' removal pursuant to 28 U.S.C. § 1441 (a), (b) and (c) is appropriate.

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER
COLEMAN & GOGGIN**

Date: October 18, 2018

BY: s/Donald L. Carmelite, Esquire

Donald L. Carmelite, Esquire

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Attorneys for Defendants Dauphin County,

Dauphin County Sheriff's Department,

Nicholas Chimienti, Jr., Paul Leggore, and

Dauphin County Central Booking

CERTIFICATE OF SERVICE

I, Michele E. Neff, an employee of Marshall Dennehey Warner Coleman & Goggin, do hereby certify that on this 18th day of October, 2018, I served a copy of the forgoing document, and in the manner indicated below, which service satisfies the requirements of the Federal Rules of Civil Procedure, by ECF notification and/or by depositing a copy of same in the United States Mail, first-class postage prepaid, addressed as follows:

VIA U.S. MAIL

Rebecca Lyttle, Esq.
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*Counsel for Middletown Borough Police Department
And Middletown Borough*

MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN

/s/ Michele E. Neff

Michele E. Neff, Admin. Asst. to
Donald L. Carmelite, Esquire